

REMARKS

This Amendment and the following remarks are intended to fully respond to the Office Action mailed April 1, 2008 (hereinafter the "*Action*"). In that Action, claims 1-16 and 18-39 were rejected. More specifically, claims 17 and 18 were objected to for various informalities, claims 13 and 22-24 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter, claims 1-7, 9-13, 16, 18-22, 24, 25, and 30-37 were rejected under 35 U.S.C. §102(b) as being anticipated by Hirsch et al (WO 97/24682) (hereinafter "*Hirsch*"), and claims 8, 14, 15, 23, 26-29, 38 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hirsch* in view of Rosse (USPN 6,640,212) (hereinafter "*Rosse*").

In this response, claims 1, 5, 18, 25, 30, 31, and 38 have been amended, claims 13, 17, and 22-24 have been canceled and claim 40 has been added.

Statement of Summary of Examiner Interview

Applicants thank Examiner Boyce for the interview held on August 12, 2008. In that interview, Examiner Boyce and Applicant's representative discussed possible claim amendments that could potentially better capture the concept of this application. Examiner Boyce indicated a further search would be required.

Claim Objections

Claims 17 and 18 were objected to for various informalities. In response, claim 17 has been canceled and claim 18 has been amended to depend from claim 16.

Claim Objections -35 U.S.C. § 101

Claims 13 and 22-24 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. In response, claims 13 and 22-24 have been canceled.

Claim Rejections – 35 U.S.C. § 102

Claims 1-7, 9-13, 16, 18-22, 24, 25, and 30-37 are rejected under 35 U.S.C. §102(b) as being anticipated by Hirsch et al (WO 97/24682) (hereinafter "*Hirsch*"). Applicants respectfully

submit that the claims were previously allowable over the cited art but that the amendments further clarify embodiments of the invention, such that the claims in their current form are allowable over the cited art.

Amended Claim 1 recites a method of scheduling a plurality of employees in a health care environment, wherein at least two patients receive treatment during a predetermined time period comprising, *inter alia*, scheduling employees in response to the distributed employee time requirements. The claim further recites a process of dividing the day into intervals and the scheduling employees in providing care to patients based on requirements in time intervals. Importantly, the method of claim 1 (and all its dependent claims) involve displaying the scheduling information on a per-interval basis such that a user can quickly and easily determine peaks and valleys in scheduling employees and patients. Such a determination allows the user to modify patient schedules, thereby reducing the peaks and valleys and effectively improving scheduling efficiency. Furthermore, the scheduling process also involves rounding up an amount of employees scheduled when a determination by the scheduling module results in a fractional number of employees needed to address the needs of the plurality of patients, and counting employees at the fractional number based at least upon the employees' training resulting in scheduling employees in non-whole number increments.

Hirsch at least does not disclose counting employees at the fractional number based at least upon the employees' training because *Hirsch* is silent regarding this recitation. For example, *Hirsch* merely discloses allowing a surgeon to select a time interval for starting a medical procedure. (See *Hirsch* page 15, lines 21-22.) Accordingly, *Hirsch* discloses assigning a whole person (the surgeon) to a time interval. Consequently, *Hirsch* fails to disclose counting employees at fractional increments.

Hirsch further does not anticipate the claimed invention because *Hirsch* at least does not disclose rounding up an amount of employees scheduled when a determination by the scheduling module results in a fractional number of employees needed to address the needs of the plurality of patients, or counting employees at the fractional number based at least upon the employees' training resulting in scheduling employees in non-whole number increments, as recited by amended claim 1. Accordingly, independent claim 1 patentably distinguishes the present

invention over the cited art, and Applicants respectfully request withdrawal of this rejection of claims 1.

Dependent claims 2-12, 14-16, and 18-21 are also allowable at least for the reasons described above regarding independent claim 1, and by virtue of their respective dependencies upon independent claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of dependent claims 2-12, 14-16, and 18-21.

With respect to independent claims 25 and 30, Applicants reiterate the arguments made above with respect to claims 1 and submit that independent claims 25 and 30, and their respective dependent claims are allowable at least for the same reasons.

Claim Rejections – 35 U.S.C. § 103

Claims 8, 14, 15, 23, 26-29, 38 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hirsch* in view of Rosse (USPN 6,640,212) (hereinafter "*Rosse*").

With respect to claims 8, 14, 15, 23, and 26-39, each of these claims either depend directly or indirectly from independent claims 1, 25 and 30 respectively. Applicants reiterate the arguments made above and submit that *Hirsch* does not disclose at least the elements recited above and *Rosse* does not make up for the deficiencies of *Hirsch*. Therefore each of dependent claims 8, 14, 15, 23, 26-29, 38 and 39 are allowable over the recited combination of references.

With respect to claim 38, claim 38 has been amended to contain similar elements as recited in claim 1. Therefore, application reiterates the arguments made above with respect to claim 1 and submits that *Hirsch*, either alone or in combination with *Rosse*, does not recite all of the elements of claim 38. As claim 39 depends from claim 38, claim 39 is allowable for at least the same reasons.

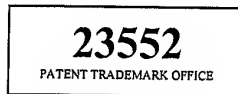
CONCLUSION

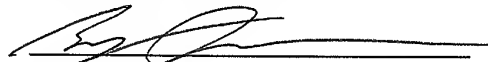
A petition for a two-month extension of time is provided herewith. It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,
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